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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/767,742      | 01/23/2001  | John Posey           | BD46-17             | 2270             |

7590 01/25/2005  
EDWARD P. DUTKIEWICZ  
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EXAMINER

MOSSER, ROBERT E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3714

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/767,742

Applicant(s)

POSEY, JOHN

Examiner

Robert Mosser

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4 and 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 and 5 is/are rejected.
- 7) ☐ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**



**This action is responsive to the amendment filed August 2<sup>nd</sup>, 2004.**

**This action is non-final**

**Claims 4 and 5 are pending.**

*Though the response is directed to an office action dated 12-11-2003 no such office action exists and hence this response has been treated as responsive to the previously mailed office action of March 31<sup>st</sup>, 2004*



***Claim Objections***

Claims 4 and 5 are objected to because of the following informalities:  
Both presented claims 4 and 5 teach in their final lines the possibility of the method returning to an activation step while in the preamble reciting "in combination the steps of". This raises the issue as understood that the presented steps maybe executed regardless of order (in combination) while attempting to suggest that the order is critical to the function of the claimed invention with the phrase "return to an activation step" Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 4 and 5, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

The term "accurately" in claim 5 is a relative term, which renders the claim indefinite. The term "accurately" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear to what standard "accurately" has been employed by the applicant.

The term "other entity" in claim 5 is a relative term, which renders the claim indefinite. The term "other entity" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear what "other entity" is intended to specify and whether as present this "entity" would per instance encompass a human holding a receiver and hence non-statutory subject matter.

The term "cost effective transmission" in claim 5 is a relative term, which renders the claim indefinite. The term "cost effective transmission" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably

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apprised of the scope of the invention. It is unclear to what standard "cost effective transmission" has been employed by the applicant.

The term "other functions" in claim 5 is indefinitely and fails to indicate the meets and bounds of such a term as utilized.

Finally both claims 4 and 5 conclude with an understood user selection step. This selection step as presented however teaches "collecting a response from a golfer to whether there is another region to be collected" and the subsequent action based on a "Yes" or "No" response. The claim is indefinite here for first not demonstrating that the golfer is entering a response in a "yes" or "no" form and further in the absence of the above what answers would be understood to the system as qualifying as a "yes" or "no" response.

### ***Claim Rejections - 35 USC § 103***

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rudow et al (US 6,236,360).

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Rudow teaches a golf course yardage information system including:

A hardware component including a GPS system (17 & Fig 15), a personal computer (Figure 13), and operating system (Col 13:29-31) and software (Col 4:1-2);

The active collection of longitude and latitude coordinates from a global positioning system (Col 58:24-43) at a rate of once per second (Col 58:44-52); and,

The tracing of desired regions with the GPS system to acquire the data of the region to be mapped and producing a graphical map based on this data further included delineated regions separated and shown based on these delineations (Fig 20, Claim1, Col 58:24-57).

Rudow however is silent regarding the user inputting a selection of "YES" or "NO" to direct the operation of data point collection. However figure 17 shows a data a mapped series of data points including a start point and an end point. The process/function of allowing a user to designate the start and finish of a data point mapping is understood as an implicit function of a mapping with a start and an end. It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the use of a "YES/NO" selection in the device of Rudow in order to designated the start and end points of Rudow's data sets.

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***Allowable Subject Matter***

Claim 5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of records fails to present the transmitting and receiving of information between a personal computer and

a global positioning device,

a low power radio frequency transceiver,

a cellular technology device, and

a cellular digital packet device

in their presented combination while also assisting the golfer through

automated distance calculations,

equipment indications,

scoring,

statistics, and

the cataloguing courses.

While these feature are present in the prior art separately the claim language does not presently provide for an alternative arrangement and hence any combination would require a cumulative incorporation of feature deemed non-obvious as presented.

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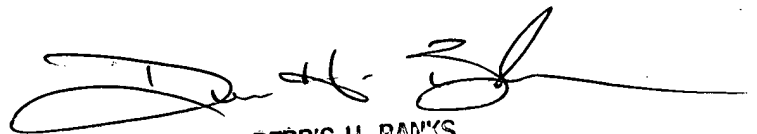
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (571)-272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on (571)272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM



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